IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE N. V. RAMANA

Writ Petition No.17473 of 2006

Dated: 06-09-2007

Between:

Thotaraju Bangaru Naidu, s/o Satyanarayana.

... Petitioner

and

1. The Industrial Tribunal-cum-Labour Court,
   Visakhapatnam,
   rep. by its Presiding Officer and another.

... Respondents

ORDER:

Questioning the Award dated 22-03-2004 passed in I.D.No.128 of 2001 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam, the present writ petition has been filed.

2. Petitioner was appointed as casual conductor in Andhra Pradesh State Road Transport Corporation on 19-12-1994. On 28-04-1999, after completion of his duty, petitioner while submitting the S.R. remitted cash of Rs.4,689-50 ps. instead of Rs.4,989-50 ps. and had shown in the Waybill that Rs.3-00 denomination tickets as not sold, but as per the S.R., he sold Rs.3-00 tickets also. As petitioner is not supposed to alter the Waybill entries and has retained an amount of Rs.300/-, he was served with a show-cause notice dated 09-06-1999, for which he submitted his explanation on 08-07-1999. The second

respondent – Depot Manager in the preliminary enquiry after considering the explanation offered by petitioner and based on the material available on record passed an order on 19-08-1999 disengaging the services of petitioner from the respondent Corporation. Aggrieved thereby, petitioner preferred an appeal on 20-09-1999 and the same was rejected on 14-12-1999 and the review preferred by him was also rejected on 20-11-2000. After exhausting all the remedies, petitioner raised an industrial dispute being I.D.No.128 of 2001, before first respondent – the Chairman & Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam seeking to set aside the order of second respondent and for his reinstatement into service. The first respondent after considering both oral and documentary evidence available on record dismissed the industrial dispute. Assailing the said order, the present writ petition has been filed.

3. Heard learned counsel for petitioner and learned Standing Counsel appearing for the respondent-Corporation.

4. Learned counsel for petitioner contended that on 28-04-1999 even though petitioner was suffering from fever and vomitings, he attended to his duty and after completion of his duty on 29-04-1999 due to his health condition and as he does not know as what he did on that day, remitted cash of Rs.4,689-50 ps. instead of Rs.4,989-50 ps. He further contended that though petitioner had submitted an explanation to the show cause notice, the respondent Corporation has not conducted any regular departmental enquiry and moreover it has issued final order on 19-08-1999 deleting the petitioner from the select list of casual conductors, based on the preliminary enquiry alleged to have been conducted by second respondent. He also contended that second respondent, who conducted the enquiry, was totally influenced by the management of respondent Corporation and that the appeal and

review petitions filed by petitioner were not properly considered by the authorities.

He further contended that the Labour Court erred in finding that petitioner had intentionally altered the figures and remitted the cash of Rs.4,689-50 ps. instead of Rs.4,989-50 ps. He also contended that on the fateful day only due to his health condition, petitioner could not deposit the amount of Rs.300/- and as such the punishment of removal from service imposed on him is disproportionate and the award passed by the Labour Court may be set aside.

5. Learned Standing Counsel appearing for second respondent while reiterating the averments made in the counter affidavit vehemently contended that petitioner was appointed as a casual conductor and he would be considered for regularization provided if his work is satisfactory and his services are terminable without assigning any reasons as per the terms and conditions of his initial engagement. He further contended that as petitioner is only a casual conductor, the respondent-Corporation did not issue any charge sheet to him and that as the preliminary enquiry report shows that petitioner intentionally and willfully altered the particulars in the Waybill; the punishment of deleting the petitioner from the list of casual conductors is not disproportionate to the proved misconduct.

He further submitted that the petitioner has not shown any interest to defend his case before the Labour Court, and the Labour Court, after considering the material and evidence produced by the respondent-Corporation coupled with the admissions made by the petitioner in his explanation Ex.M10, has rightly dismissed the industrial dispute, and as such, no exception can be taken thereto.

6. Admittedly, petitioner was appointed as a casual conductor in the respondent Corporation and his services are terminable without assigning any reasons whatsoever as per the terms and conditions of his appointment. As seen from the record, it is evident that on 28-04-

1999 petitioner after completion of his duty while submitting the S.R. and Waybill, remitted cash of Rs.4,689-50 ps. instead of Rs.4,989-50 ps. and had shown in the Waybill that Rs.3-00 denomination tickets were not sold, but in the S.R. he has shown that Rs.3-00 denomination tickets were sold. Even though it is the duty of the conductor to verify the S.R., and the Waybill, tally the figures mentioned therein and then remit the amount,

as petitioner had intentionally altered the figures and retained cash of Rs.300/-, petitioner was issued show cause notice dated 09-06-1999. Since the petitioner has failed to justify his action of not remitting the amount of Rs.300/- and moreover he went to the extent of altering the Waybill, the second respondent after considering the explanation dated 08-07-1999 offered by petitioner passed an order disengaging the services of petitioner from the respondent Corporation. After exhausting all the department remedies available to him, the petitioner has challenged the removal order passed by second respondent before the Labour Court.

7. As seen from the award passed by the Labour Court, it is evident that petitioner having questioned the order of removal passed by second respondent has not shown any interest in prosecuting his case. In fact, no oral or documentary evidence is adduced on his behalf in support of his contentions. On the other hand, the respondent Corporation examined MWs.1 and 2 and got marked Exs.M1 to M15. The Labour Court on appreciation of both oral and documentary evidence having observed that though petitioner is having 5½ years experience as casual conductor has altered the Waybill and pocketed an amount of Rs.300/- at the time of remitting cash, which is supported by Ex.M10, explanation offered by petitioner, gave a categorical finding that petitioner has misappropriated the amount by altering the Waybill, which is a serious misconduct, and accordingly held that petitioner is not entitled for reinstatement into service. In these

circumstances, I am of the considered opinion that the award passed by the Labour Court is perfectly justified and there is no need to interfere with the award impugned.

8. The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

_____

JUSTICE N. V. RAMANA

Dt.06-09-2007
GLV